National Labor Relations Board



Weekly Summary of NLRB Cases

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April 22, 2005		W-2996
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Millennium Maintenance & Electrical Contracting, Inc. (2-CA-35054; 344 NLRB No. 62) New York, NY April 14, 2005. Chairman Battista and Member Liebman adopted the recommendation of the administrative law judge and ordered that the Respondent pay Ilya Kleyn \$25,778.00 in backpay and dental expenses, and remit \$1480.00 to United Service Workers Local 363's annuity fund on Kleyn's behalf. Member Schaumber dissented in part. [HTML] [PDF]

The issue before the Board is whether the Respondent sustained its burden of proving that Kleyn failed to mitigate backpay damages by making a reasonable search for interim employment after his unlawful layoff on October 10, 2002. The Respondent argued that Kleyn entered into an agreement with a representative of Electrical Workers IBEW Local 3 to remain unemployed and, therefore, did not diligently search for work. However, Chairman Battista and Member Liebman agreed with the judge that the Respondent did not sustain its burden of proving that Kleyn failed to conduct a reasonable search for work, explaining: "[W]e do not find that a clear preponderance of all the relevant evidence runs counter to the judge's partly demeanor-based decision to credit Kleyn's denial that he agreed to remain unemployed."

Member Schaumber joined his colleagues in adopting the judge's finding that the Respondent's ambiguous discussions with Kleyn about future employment did not constitute an unconditional offer of reinstatement under Board precedent. Contrary to his colleagues, he concluded that the record evidence fully supports the Respondent's contention that Kleyn failed to make reasonable efforts to mitigate his damages and, in fact, willfully incurred a loss of income during the 4-month period following his layoff.

(Chairman Battista and Members Liebman and Schaumber participated.)

Hearing at New York City on July 12, 2004. Adm. Law Judge Raymond P. Green issued his decision Sept. 10, 2004.

Rogers Corp. (34-CA-9117; 344 NLRB No. 60) Rogers and Woodstock, CT April 12, 2005. Affirming the administrative law judge's recommendations, the Board held that the Respondent violated Section 8(a)(1) of the Act by refusing to grant, or consider granting, a permanent position to Jeremiah Lamothe, and by terminating him on October 25, 1999 because he invoked a right under the Respondent's collective-bargaining agreement with Oak Lodge-Rogers Local 46 and PACE International Union. The Board modified the judge's recommended Order and notice to more closely reflect the violations found. [HTML] [PDF]

(Chairman Battista and Members Liebman and Schaumber participated.)

Charge filed by Jeremiah Lamothe, an Individual; complaint alleged violation of Section 8(a)(1). Hearing at Hartford, Oct. 2-3, 2000. Adm. Law Judge Michael A. Marcionese issued his decision Jan. 26, 2001.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Dana Corp. and Auto Workers (Individuals) St. Johns, MI April 11, 2005. 7-CA-46965, et al., 7-CB-14083, et al.; JD-24-05, Judge William G. Kocol.

QSI and Smithfield Packing Co., Inc., Tar Heel Div. (Food & Commercial Workers) Tar Heel, NC April 11, 2005. 11-CA-20240, et al.; JD(ATL)-5-05, Judge Lawrence W. Cullen.

Comcast of Maryland, Inc. (Teamsters Local 639 and Individuals) Lanham, MD April 13, 2005. 5-CA-31652, et al.; JD-25-05, Judge Karl H. Buschmann.

Elevator Constructors Local 91 (Otis Elevator Co., Inc.) Hartford, CT April 13, 2005. 34-CC-200; JD(NY)-19-05, Judge Raymond P. Green.

Electrical Workers IBEW Local 98 (Lucent Technologies, Inc. and Communications Workers) Philadelphia, PA April 13, 2005. 4-CD-1032, et al.; JD-28-05, Judge Bruce D. Rosenstein.

Longs Drug Stores California, Inc. (Teamsters Local 439) Lathrop, CA April 13, 2005. 32-CA-21550, 32-RC-5259; JD(SF)-30-05, Judge Burton Litvack.

Pan American Hospital Corp., Debtor in Possession (Service Employees and an Individual) Miami, FL April 15, 2005. 12-CA-23630, et al.; JD-27-05, Judge Ira Sandron.

NO ANSWER TO COMPLIANCE SPECIFICATION

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the compliance specification.)

Modern Towel & Linen Supply Service, et al. (Amalgamated Service & Allied Industrial Joint Board, UNITE) (29-CA-20998; 344 NLRB No. 58) Staten Island, NY April 12, 2005. [HTML] [PDF]

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Flying Food Group, Inc., Newark, NJ, 22-RC-12539, April 12, 2005 (Chairman Battista and Members Liebman and Schaumber)

Community Health Center La Clinica, Pasco, WA, 19-RC-14606, April 13, 2005 (Chairman Battista and Members Liebman and Schaumber)

Gale Building Products, North Las Vegas, NV, 32-RD-911, April 13, 2005 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND DIRECTION [that Regional Director open and count ballots]

Lone Star Legal Aid, Houston, TX, 16-RC-10610, April 14, 2005 (Chairman Battista and Members Liebman and Battista)

DECISION AND ORDER [remanding to Regional Director]

Inter-Con Security Systems, Inc., Pasadena, CA, 21-RC-20778, April 14, 2005 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board granted requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Adventist Glenoaks Hospital, Glen Dale Heights, IL, 13-RC-21289, April 13, 2005 (Chairman Battista and Member Schaumber; Member Liebman dissenting)

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Champion Home Builders Co., Lindsay, CA, 32-RM-790, April 13, 2005 (Chairman Battista and Members Liebman and Schaumber)

E. I. Dupont de Nemours, Louisville, KY 9-RD-2066, April 13, 2005 (Chairman Battista and Members Liebman and Schaumber)
